IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL No. 470 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/12/2004 in WP No. 22474 OF 2004 on the file of the High Court.)

Between:

Sameera Ismai, D/o Mirza Ismail Baig,
Caste: Muslim , R/o H.No. 18-8-117/17/A Mubarakdullah Colony, Santoshnagar, Hyderabad.

..... APPELLANT

AND

1.The Secretary for Education, Government of Andhra Pradesh at Secretariat, Hyderabad.
2. The Secretary, State Council for Higher Education at Saifabad, Hyderabad, Andhra Pradesh.
3. The Director of Education, State Council for Higher Education , Saifabad, Hyderabad.
4. The Secretary, Islamia College of Edcuation, SRT Colony, Yakutpura, Hyderabad.
5. The Vice Chancellor, Osmania University, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant: Mr. T.MOHAN RAO

Counsel for Respondent Nos.1 to 3: GP FOR EDUCATION

Counsel for Respondent No.5:Mr.Deepak Bhattacharjee

Counsel for Respondent No.4: None appeared.

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The grievance of the appellant is that though she had not secured 45% marks and above in Part-II Group subjects at the graduation level, but, she was permitted to appear in the Education Common Entrance Test-2003 (EDCET-2003) and having succeeded in the said test was admitted and also underwent five months course out of nine months course and the action of the respondent-University in rejecting the admission of the petitioner-appellant on the ground that she could not have been permitted to appear in the EDCET-2003, is bad in law. It is also submitted by the learned counsel for the appellant that the Andhra Pradesh Educational Institutions (Regulation of Admissions into B.Ed. Course through Common Entrance Test) Rules, 1989 lay down the eligibility criteria for admission. There is no bar in the said rules that candidate having less than 45% marks cannot seek admission. As such, the instructions issued by the respondent-University laying down therein 45% marks being contrary to the rules framed by the Government, the respondent's action is bad in law.

Learned Single Judge disposed of the writ petition on the ground that the petitioner had secured only 40% marks and since under the instruction booklet issued by the respondent-University, only those candidates who have obtained aggregate of 45% marks and above in Part-II Group subjects can appear in the entrance test, the petitioner-appellant was not entitled to appear in the examination. The petitioner-appellant has, in the writ petition, not challenged the authority and jurisdiction of the respondent-University in issuing the instructions contrary to the rules of the Government and since she did not make this as the basis in the writ petition, the petitioner cannot be permitted to challenge the very instructions of the respondent-University under which the petitioner participated.

The learned counsel for the appellant submits that since she was duly admitted, it was not open for the University to cancel the admission under Rule of

estoppel. This submission is also not tenable inasmuch as but for the mistake, the appellant could not have appeared in the entrance examination and the Rule of Estoppel could not be applied and merely she underwent five months out of 9 months course, she will not have any right to continue her course, since she is not at all eligible to appear for the entrance test. Thus, we find no force in the Appeal and the same is accordingly dismissed. No costs.

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DEVINDER GUPTA, C.J.

29.3.2005.

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B.SESHASAYANA REDDY, J.

VR.

To

1.The Secretary to Government of Andhra Pradesh, Education Department, Secretariat, Hyderabad.
2. The Secretary, State Council for Higher Education at Saifabad, Hyderabad, Andhra Pradesh.
3. The Director of Education, State Council for Higher Education, Saifabad, Hyderabad.
4. The Secretary, Islamia College of Edcuation, SRT Colony, Yakutpura, Hyderabad.
5. The Vice Chancellor, Osmania University, Hyderabad.

6. Two CCs to Government Pleader for Education, High Court Buildings, Hyderabad (OUT).

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